Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
2000 Biennial Regulatory Review	)	
Comprehensive Review of the	)	
Accounting Requirements and	)	CC Docket No. 00-199
ARMIS Reporting Requirements for	)	
Incumbent Local Exchange Carriers	)	
Phase 2 and Phase 3	)	

REPLY COMMENTS OF QWEST CORPORATION

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TABLE OF CONTENTS

SUMMARY

In reviewing the comments and replies in this proceeding, the Commission cannot lose sight of Section 11 and its overall purpose. This proceeding is not directed at determining which rules are "useful" to state regulatory agencies or what additional requirements may provide new information to the states or competitors. The purpose of this proceeding is to eliminate rules that the Commission finds to be "no longer necessary in the public interest."

Section 11 is clear on its face. It neither contemplates nor allows the Commission to expand existing rules. In adopting Section 11, Congress directed the Commission to determine whether any of its rules were no longer necessary and to "repeal or modify" any rules that are "no longer necessary in the public interest." No reasonable interpretation of Section 11 would allow the Commission to expand its rules or to modify them in such a way that the burden on LECs would be increased.

The fact that most commenting parties ignore the need for establishing a standard to determine which rules are "no longer necessary in the public interest" should not stop the Commission from doing so. These parties have no interest in conducting a lawful Section 11 biennial review -- their interests lie in either maintaining the status quo or expanding existing requirements.

While existing accounting requirements may have served a useful purpose in the past, this is not a justification for retaining them today. If the Commission is to give proper deference to Congress and comply with Section 11, it must take a "fresh look" at its accounting and reporting requirements to determine what is necessary in today's competitive environment. The net result of the Commission's efforts should be a minimal set of requirements that satisfies

Section 11 and gives the Commission the information that it needs to fulfill its regulatory duties without burdening LECs with layer upon layer of redundant and unnecessary requirements.

This proceeding represents an opportunity for the Commission to comply with the dictates of Section 11 and lift the burden of unnecessary and costly accounting and reporting requirements from large incumbent LECs. The Commission should take full advantage of this opportunity.

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REPLY COMMENTS OF QWEST CORPORATION

Qwest Corporation ("Qwest"), through counsel and pursuant to the Federal Communications Commission's ("Commission") Notice of Proposed Rulemaking ("NPRM" or "Notice"),[1] hereby submits its Reply to comments filed in the above-captioned Section 11 proceeding on accounting and reporting requirements.[2]

I. INTRODUCTION

Numerous parties including state regulatory commissions, consumer advocates, incumbent local exchange carriers ("LEC"), interexchange carriers ("IXC"), other federal agencies and associations filed comments in the opening round of this proceeding.[3] State regulatory agencies were by far the most vocal in defending and proposing expansion of existing LEC accounting and reporting requirements. Only passing reference was made to Section 11 and its dictates, other than in LEC comments.

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[1] In the Matter of 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3, CC Docket No. 00-199, Notice of Proposed Rulemaking, FCC 00-364, rel. Oct. 18, 2000.

[2] In addition to submitting these comments, Qwest also concurs in the more detailed reply comments submitted by the United States Telecom Association ("USTA").

[3] Twenty-eight parties filed comments in the opening round.

In reviewing the comments and replies in this proceeding, the Commission cannot lose sight of Section 11 and its overall purpose -- to eliminate all unnecessary accounting and reporting requirements that are currently imposed on LECs by the Commission's rules. This proceeding is not directed at determining which rules are "useful" to state regulatory agencies or what additional requirements may provide new information to the states or competitors. The purpose of this proceeding is to eliminate rules that the Commission finds to be "no longer necessary in the public interest."[4] In order to accomplish this the Commission must embrace both the spirit and the letter of Section 11 and abandon its traditional approach to reviewing regulatory requirements.[5]

II. THE COMMISSION HAS DETERMINED THAT IT SHOULD NOT IMPOSE NEW MORE BURDENSOME OBLIGATIONS IN A SECTION 11 BIENNIAL REVIEW

Numerous state regulatory agencies urge the Commission to expand existing accounting and reporting requirements in this proceeding.[6] Either these state commissions are misinformed about the purpose of a biennial review under Section 11 of the Act or, simply, are ignoring the clear language of the statute. For example, the Public Service Commission of Wisconsin ("Wisconsin PSC") proposes a laundry list of new accounts that it claims are necessary to:

[4] Section 11 of the Act contains two sections. The first directs the Commission to review all existing regulations and "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service." The second section requires that the "Commission shall repeal or modify any regulation it determines to be no longer necessary in the public interest." 47 U.S.C. § 161.

[5] Section 11 creates a presumption that existing rules are not necessary unless the Commission finds that they are. As Commissioner Furchtgott-Roth observed, "the Commission must affirmatively determine that a rule is necessary in the public interest; otherwise, it must be repealed or modified." See Furchtgott-Roth Comprehensive Report on FCC's Biennial Review Process, rel. Dec. 21, 1998 at 4-5 ("Furchtgott-Roth Report").

[6] This is not surprising given the fact that the language of the Notice implies that the Commission will consider additional accounting and reporting requirements.

> follow the rate of deployment and cost of new technologies, to evaluate prices for unbundled network elements (UNEs) and resold services, to determine separated jurisdictional costs, to provide more details for state access revenues, and to provide insight into issues related to reciprocal compensation, federal and state universal service support, and collocation.[7]

Neither the Wisconsin PSC's proposal nor similar requests for expansion of the Commission's existing accounting and reporting requirements have a place in a Section 11 biennial review.[8] All such proposals for expanded accounting and reporting requirements should be rejected as both contrary to -- and beyond the scope of -- a Section 11 proceeding.

Section 11 is clear on its face. It neither contemplates nor allows the Commission to expand existing rules. In adopting Section 11, Congress directed the Commission to determine whether any of its rules were no longer necessary and to "repeal or modify" any rules that are "no longer necessary in the public interest."[9] No reasonable interpretation of Section 11 would

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[7] Wisconsin PSC at 3.

[8] For example, the Idaho Public Utilities Commission ("Idaho PUC") at 5; the Maryland Public Service Commission ("Maryland PSC") at 6-7; the North Carolina Utilities Commission ("North Carolina") at 3; and the Utah Public Service Commission & the Utah Division of Public Utilities ("Utah PSC") at 4-5; also argue for the creation of new accounts. The Utah PSC (at 4) states that "These accounts will allow the states to continue to assess and monitor carriers' prices and costs." The Maryland PSC (at 6) states that "The accounts suggested by states for new technologies such as ATM switches, are appropriate and necessary to enable the FCC to maintain an up-to-date accounting system, and should enable the FCC and states to understand the nature of the [incumbent LEC's] investment and ensure that prices are reflective of their actual costs." North Carolina (at 3) suggests that "Consistent with the ongoing implementation of local competition, new accounts should be established to recognize revenues and costs for items such as unbundled network elements (UNEs), collocated facilities, interconnection agreements, reciprocal compensation, and universal service fund transactions." The Idaho PUC (at 5) argues that, "To enable the Commission to maintain an up-to-date accounting system, the accounts suggested by states for new technologies are appropriate and necessary. These accounts will continue to allow the Commission and states to understand the nature of the carrier's investment and ensure that prices are reflective of their actual costs."

[9] 47 U.S.C. § 161.

allow the Commission to expand its rules or to modify them in such a way that the burden on LECs would be increased.

The Commission inasmuch acknowledged this fact in its recent report on its 2000 Biennial Regulatory Review ("Report") and stated that it had no intention of increasing burdens in a biennial review.

> Thus, as part of the biennial review process, we do not intend to impose new obligations on parties in lieu of current ones, unless we are persuaded that the former are less burdensome than the latter and are necessary to protect the public interest.[10]

The Commission's Report makes it clear that any party proposing modification rather than elimination of existing accounting and reporting requirements has a significant burden of proof and must demonstrate that the proposed modifications do not increase regulatory burdens on LECs.

While Qwest has always been of the opinion that LEC accounting and reporting requirements could not lawfully be expanded in a Section 11 Biennial Review,[11] the Commission's Report should remove all doubt. This should allow Commission staff to significantly narrow their inquiry in this proceeding and discard all requests for additional accounting and reporting requirements, no matter how well intended. As Qwest stated in its opening comments, the Commission's inquiry should be directed at:

> determin[ing] the absolute minimum set of accounting and reporting requirements that is necessary for it [the Commission] to perform its statutory duties under the Act. [footnote omitted] Any requirements beyond this minimum should be retained only if there is a compelling public interest.[12]

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[10] In the Matter of 2000 Biennial Regulatory Review, Report, CC Docket No. 00-175, rel. Jan. 17, 2001 at 7 (2001 FCC LEXIS 249).

[11] See Qwest Comments at n.15.

[12] Id. at 3-4.

Not only would such a narrow inquiry serve the purposes of Section 11, it would also make the most efficient use of the Commission's limited resources.

III. MOST COMMENTING PARTIES FAIL TO IDENTIFY ANY STANDARD FOR DETERMINING "REGULATORY NECESSITY" UNDER SECTION 11

In their quest to maintain and increase regulatory burdens on LECs, commenters all but ignore the language of Section 11 and the need for a standard for determining "regulatory necessity." Both the Commission's Report and Commissioner Furchtgott-Roth's earlier Report addressed the issue of establishing standards for evaluating existing rules[13] in a Section 11 review.[14] In the absence of a standard, it is all but impossible to engage in reasoned decision-making and for any subsequent Commission order to withstand judicial scrutiny.

Qwest proffered a standard for determining "regulatory necessity" in its opening comments. Qwest's proposed standard closely parallels the Office of Plans and Policy's Framework referenced in Commissioner Furchtgott-Roth's Report.[15] Regardless of whether the Commission adopts Qwest's proposed standard, it is clear that the Commission must adopt and apply a consistent analytical standard/methodology if it is to successfully complete its biennial review of accounting and reporting requirements. The Commission cannot fulfill its statutory duties under Section 11 by utilizing *post hoc* rationalizations.

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[13] The Commission discussed the need for consistent analysis in determining whether Commission rules needed to be modified or eliminated. It also indicated that it expected to take into account the four criteria used by Commission staff in evaluating existing rules. See Report at 2.

[14] In his 1998 Report on the implementation of Section 11, Commissioner Furchtgott-Roth emphasized the need to adopt, *a priori*, and apply uniform principles in making a public interest determination under Section 11.

[15] See Furchtgott-Roth Report at Appendix D.

The fact that most commenting parties ignore the need for establishing a standard to determine which rules are "no longer necessary in the public interest" should not stop the Commission from doing so. These parties have no interest in conducting a lawful Section 11 biennial review -- their interests lie in either maintaining the status quo or expanding existing requirements. The accounting and reporting requirements that these parties defend were adopted in a different era and long before Congress enacted the current Telecommunications Act.

The fact that existing accounting requirements may have served a useful purpose in the past is not a justification for retaining them today. If the Commission is to give proper deference to Congress and comply with Section 11, it must take a "fresh look" at its accounting and reporting requirements to determine what is <u>necessary</u> in today's competitive environment. The net result of the Commission's efforts should be a minimal set of requirements that satisfies Section 11 and gives the Commission the information that it needs to fulfill its regulatory duties without burdening LECs with layer upon layer of redundant and unnecessary requirements.

IV. <u>THE COMMISSION IS NOT REQUIRED TO RETAIN EXISTING ACCOUNTING AND REPORTING REQUIREMENTS IF THERE IS NO FEDERAL REGULATORY NECESSITY</u>

The comments of many state regulatory agencies fail to acknowledge that Section 11's presumption against unnecessary regulation is focused on <u>federal necessity</u>. The fact that a state regulatory agency may need certain information to perform its regulatory duties is irrelevant for purposes of a Section 11 biennial review. The only relevant question is -- whether there is a <u>federal</u> need for the regulation. If not, Section 11 directs the Commission to eliminate or modify the regulation.

It is unreasonable to argue, as many state regulatory agencies do, that the Commission's accounting and reporting requirements should be tailored to satisfy the needs of individual state commissions.[16] State regulatory commissions are a product of state laws. If the individual state agencies were not given sufficient authority to collect information necessary to perform their statutory duties that is a problem to be addressed in state legislatures,[17] not in a federal rulemaking proceeding. The Communications Act neither contemplates nor requires the Commission to act as the collection agent or central depository for state regulatory information. In fact, Section 11 requires exactly the opposite. That is, if there is no federal necessity -- existing Commission accounting and reporting requirements must be repealed.[18]

V. THE COMMISSION MAY NOT IGNORE CHANGES IN THE COMPETITIVE ENVIRONMENT IN A SECTION 11 BIENNIAL REVIEW

Neither the NPRM nor the advocates of the status quo (or expanded accounting and reporting requirements) make more than a passing reference to the importance of competition in a Section 11 biennial review. AT&T Corp. ("AT&T") and others assert that there is no "meaningful economic competition" for incumbent LEC services and, therefore, there is no

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[16] The fact that some LECs track and maintain their accounting records at a greater level of detail than is currently required by Part 32 is not a justification for expanding existing accounting requirements. These companies may be using more detailed accounts in order to meet individual state regulatory requirements or for other purposes. The Commission should take notice of the fact that state regulation is far from uniform. As a provider of local service in a fourteen-state region, Qwest is well aware of the magnitude of these differences. For example, the treatment of AFUDC [allowance for funds used during construction] varies significantly among the states that Qwest serves. States use different time and financial thresholds for determining whether AFUDC applies, different interest rates and different construction periods.

Furthermore, there is unlikely to be much uniformity among the LECs as to what level of accounting detail that they maintain beyond the requirements of Part 32. Therefore, the Commission should reject state PUC appeals for even more detail as both beyond the scope of a Section 11 proceeding and unwise.

[17] See Florida Public Service Commission ("Florida PSC") at 14-15.

[18] Nor does Section 220 require that the Commission incorporate state needs in designing accounting and reporting requirements. Section 220(i) requires the Commission to notify state commissions and give them an opportunity to present their views, but no more.

justification for eliminating any of the existing accounting and reporting requirements.[19] Such arguments ignore reality. Competition in the provision of interstate[20] access services is robust.[21]

In fact, the Commission explicitly recognized the magnitude of the competition facing large incumbent LECs in interstate switched and special access markets when it adopted streamlined rules for introducing new services, geographic deaveraging (of services in the trunking basket), and a framework for granting price cap LECs greater pricing flexibility.[22]

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[19] See, e.g., AT&T at 2-3; General Services Administration ("GSA") at 2.

[20] In analyzing competition, the Commission must focus on services which are subject to the Commission's jurisdiction -- federal services, not intrastate services.

[21] Qwest presented extensive evidence of competition in the market for high capacity services in the forbearance petitions that it filed for Phoenix and Seattle. See Petition of U S WEST Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Seattle, Washington MSA, filed Dec. 30, 1998; Petition of U S WEST Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA, filed Aug. 24, 1998.

[22] See In the Matter of Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers; Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA, Fifth Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd. 14221 (1999) ("Pricing Flexibility Order"), appeal pending sub nom. Nos. 99-1395, et al., MCI WorldCom, Inc. v. FCC (D.C. Cir. pet. for rev. filed Sept. 23, 1999). The Commission recently granted BellSouth's petition for additional pricing flexibility finding that BellSouth had satisfied the competitive thresholds in numerous metropolitan areas. See In the Matter of BellSouth Petition for Pricing Flexibility for Special Access and Dedicated Transport Services, Memorandum Opinion and Order, CCB/CPD No. 00-20, DA 00-2793, rel. Dec. 15, 2000 (2000 FCC LEXIS 6659), applications for review pending, (Public Notice, DA 01-209, CC Docket No. 01-22, rel. Jan 29, 2001).

The fact that the Commission has found that Regional Bell Operating Companies have satisfied Section 271 requirements (i.e., demonstrating that local markets are open to competitors) in four states is further evidence of the existence of competition. See In the Matter of Application by SBC Communications Inc., Southwestern Bell Telephone Company, And Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance, Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas, Memorandum Opinion and Order, 15 FCC Rcd. 18354 (2000); In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and

Under the Commission's pricing flexibility framework, price cap LECs are subject to lessened regulation and given significantly more pricing flexibility once they have met certain competitive-based thresholds.

The interconnection requirements in Section 251 of the 1996 Act also have had a dramatic impact on the competition that incumbent LECs face and the way they conduct business. UNEs, resale discounts, number portability, and many other aspects of today's telecommunications marketplace did not even exist in the past. The current environment is a far cry from the days of an integrated Bell System of even ten years ago when most customers were served by a single monopoly provider with no concept of what a UNE was -- let alone how to provision one.

It should be unquestioned that the Commission must take into account the state of competition (in the markets that LECs serve that are subject to federal jurisdiction) in determining whether regulations are necessary. Otherwise, the Commission will be unable to perform its statutory duties under Section 11.

VI. COMMMENTERS FAIL TO DEMONSTRATE THAT EXISTING ACCOUNTING AND REPORTING REQUIREMENTS ARE "NECESSARY"

While commenters, particularly state regulatory agencies, assert that existing accounting and reporting requirements must be expanded, they fail to demonstrate that existing regulations are "necessary." These rules cannot be retained by the Commission without a determination that

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Order, 15 FCC Rcd. 3953 (1999), aff'd, AT&T Corp. v. FCC, 220 F.3d 607 (D.C. Cir. 2000); In the Matter of Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, Memorandum Opinion and Order, FCC 01-29, rel. Jan. 22, 2001.

they are "necessary in the public interest."[23] USTA's reply comments, filed herein today, and the following examples show that parties supporting the current rules have failed to meet their burden of proof.

A. Contrary To The Assertions Of Commenters, Class A Accounts Are Not Necessary For The Commission To Perform Its Regulatory Duties

Class B accounts are sufficient to provide all information necessary for universal service fund ("USF"), interconnection (UNEs, resale, etc.), Part 64, price cap and other valid federal regulatory purposes. There is no lawful basis for continuing to require large incumbent LECs to maintain Class A accounts in the absence of any demonstrated bona fide federal regulatory need. As of yet, no party in this proceeding has shown that there is such a need for Class A accounts.

1. USF And UNE Calculations Employ Forward-Looking Costs

None of the current USF or UNE pricing models would be adversely affected if Class A accounting requirements for large incumbent LECs were eliminated. Class A accounts neither provide information on forward-looking costs nor the level of detail necessary to develop Total Element Long Run Incremental Costs ("TELRIC") or Total Service Long Run Incremental Costs ("TSLRIC"). All of the models employ special studies to derive forward-looking investment costs and expenses -- rather than using historical costs as reflected in Class A accounts. Neither the technology reflected in forward-looking cost models nor the investment costs derived from these models bears much resemblance to historical data contained in Class A accounts.[24]

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[23] There is no question that a significant number of the existing accounting and reporting requirements would be found to be unnecessary if the Commission employed a two-part test similar to that proposed by Qwest in its initial comments. Qwest Comments at 7-9.

[24] This should not be a surprise given the speed of technological change in telecommunications in recent years.

For example, the Class A detail within the larger Cable and Wire Facilities account provides for separate accounts for poles (account 2411), aerial cable (account 2421), underground cable (account 2422), buried cable (account 2423) and conduit systems (account 2441). These investment accounts have corresponding maintenance expense accounts at the same level of detail (accounts 6411, 6421, 6422, 6423, and 6441). None of the three preceding cable accounts differentiates between copper and fiber facilities despite the fact that both installation and maintenance expenses are quite different for copper and fiber. As such, Class A accounting for Cable and Wire Facilities is of little use in forward-looking cost models.[25]

Thus, neither USF nor UNEs -- both of which are based on forward-looking costs -- provide a basis for maintaining existing Class A accounting requirements. Embedded cost data contained in Class A accounts is historical data and provides little, if any, information on costs of provisioning specific services using the most efficient technology currently available.[26]

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[25] While both the HAI and SM models have a tab in the model workbook labeled ARMIS data, for the most part this data is not utilized in developing forward-looking costs. For example, the SM does not use any expense accounts classified as Plant Specific expenses, Cable and Wire expenses, Plant Non-Specific expenses, Network Support expenses, Customer Operations expenses or Corporate Operations expenses listed in the ARMIS portion of the model. The SM model inputs for expense values are based on special studies required by the Commission with significant input from commenters and industry participants. The model inputs cannot be directly derived from ARMIS data. While the HAI model does utilize ARMIS data to a greater extent than the SM model, it modifies the resulting ratios from the major expense accounts in ARMIS to such a degree that the results bear almost no relation to the original ARMIS data.

[26] Several state commissions indicate that Class A data is needed for state USF studies. See Maryland PSC at 3; Idaho PUC at 4; Utah PSC at 2. Regardless of whether there is any basis for these claims, it is doubtful that any state commission employs unadjusted state-specific ARMIS data for determining USF support at the state level. State commissions traditionally have used the interrogatory process and other information/document requests to provide necessary information for state-specific cost studies. This information will continue to be available even if the Commission eliminates Class A accounting requirements, as it should. It should also be noted that most of the recipients of state USF support are smaller LECs that are not currently required to maintain Class A accounts. Most importantly, state need, even if substantiated, is not

2. Neither Class A Accounts Nor ARMIS Reports Are Needed To Determine Resale Discounts.

Assertions that existing Class A accounting and ARMIS reporting requirements must be maintained for state commissions to calculate resale discounts as required by Section 251(c)(4) of the Act are without merit.[27] The Act requires that wholesale discounts be based on existing retail rates less certain avoidable costs (e.g., marketing, billing and collection, etc.). Neither existing ARMIS nor Class A accounting data provide sufficient product-specific detail to calculate resale discounts.[28] As such, the proposed streamlining of accounting and reporting requirements will not have any impact on the proper determination of resale discounts.[29]

3. Class A Accounts Are Not Required For Part 64 Or Separations Purposes

Claims that Class A accounts are needed for Part 64 and separations purposes demonstrate a lack of understanding of both of these cost allocation processes. Both Part 64 and separations assign costs using a hierarchy that uses direct assignment or public prices (in the case of Part 64) as much as possible. This means that a small portion of investment and expenses is allocated using cost pools, cost studies or some similar approach to assigning common costs. Common cost allocation is not a scientific process -- it is a political process that reflects compromises/judgments made over a long period of time. Whether Class A or Class B accounts

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sufficient justification under Section 11 for maintaining Class A accounting and ARMIS reporting requirements.

[27] See Utah PSC at 1.

[28] By necessity, retail discounts must be product specific. Part 32 Class A rules disaggregate marketing into product management, sales and product advertising -- none of which are product specific.

[29] Resale discounts have normally been determined in individual state cost proceedings where a wide array of state-specific and product-specific data is presented. Streamlining or eliminating Class A accounting and ARMIS reporting requirements will have little, if any, impact on state commissions' ability to determine appropriate resale discounts.

are used is almost irrelevant to the outcome. Allocations of common costs are not exact and never will be. If it were possible to actually measure the costs caused by certain common activities, the costs would be directly assigned. The use of Class B accounts will not materially affect allocators used in either Part 64 or separations to assign common costs. The Commission's Part 64 rules do not require that Class A accounts be used. Furthermore, Class B accounts are currently employed in the separations process.

B. Commenters Provide No Evidence That The Peak Usage Forecast Requirement Serves A Worthwhile Purpose

Numerous commenters contend that the three-year peak usage forecast requirement contained in Section 64.901 provides incumbent LEC customers with meaningful protection. They are mistaken. This requirement was adopted in a rate-of-return environment long before UNEs or competitive LECs were part of telecommunications industry jargon. The problems that the Commission anticipated in adopting the three-year peak forecast rule have never developed. This Section 11 review presents the Commission with an excellent opportunity to end the life of this costly and unnecessary regulatory requirement without further deliberation.

Commenters offer a variety of superficial reasons why the peak usage requirement continues to be needed. The most common cry is that eliminating the peak usage forecast would result in the allocation of nonregulated costs to a LEC's regulated operations and adversely impact regulated rates.[30] There is no factual basis for this claim. The amount of investment that Qwest and other large LECs allocate using peak usage forecasts is miniscule. Only .02 percent of Qwest's central office and cable and wire facilities investment is assigned using the peak usage method. Allocating these costs on the basis of actual usage, as proposed by Qwest, would have no noticeable impact on cost assignment and would put incumbent LECs' nonregulated operations on equal footing with competitive LECs requesting similar functionality through the interconnection process.

The three-year peak usage forecast requirement has long since out-lived any usefulness that it may have had. It serves little or no purpose in a telecommunications environment where large LECs are subject to price cap regulation (without sharing), pricing flexibility, and extensive unbundling and interconnection requirements. Furthermore, the continued use of this rule provides nothing of value to either the Commission or regulated ratepayers.

VII. CONCLUSION

This proceeding represents an opportunity for the Commission both to comply with the dictates of Section 11 and to lift the burden of unnecessary and costly accounting and reporting requirements from large incumbent LECs. Qwest urges the Commission to take a "fresh look" at its current rules by establishing a reasonable standard for what is "necessary" in today's competitive price cap environment and eliminating all rules that do not meet this threshold test.

Respectfully submitted,

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January 30, 2001

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[30] Idaho PUC at 5; Maryland PSC at 5; Florida PSC at 8; GSA at 9.

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused 1) the foregoing **REPLY COMMENTS OF QWEST CORPORATION** to be filed electronically with the FCC by using its Electronic Comment Filing System, 2) a paper copy of the MOTION to be served, via hand delivery on those persons marked with an asterisk(*), and 3) a paper copy of the MOTION to be served, via First Class United States Mail, postage prepaid, upon all other persons listed on the attached service list.

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January 30, 2001

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